

THE NEWS OF NORFOLK ON PAGES 2, 3, 5 & 6.

COURT DECISIONS.

Notes of Cases Recently Decided,
Which are of Interest to
Our People.

DIGESTED BY W. B. MARTIN.
(Exclusively for Virginian-Pilot.)

STRICKLAND V. GRAYBILL.

Supreme Court of Appeals of Virginia.
November 16, 1899.

WHERE A CONTRACT HAS BEEN PROCURED BY FRAUD OR MISREPRESENTATION AND A PARTY IS SUED AT LAW ON NOTES MADE IN PURSUANCE OF IT, HE MAY, UNDER SECTION 3399 OF CODE, FILE A PLEA AND SET OFF HIS DAMAGES AGAINST THE NOTES.

REQUISITES OF SUCH A PLEA.

THE RENEWAL OF NOTES UNDER AN UNDERSTANDING WITH PAYEE THAT HE WOULD RELEASE THE MAKER FROM THE CONTRACT BY WHICH THEY WERE OBTAINED IS NOT A RATIFICATION OF SUCH CONTRACT.

The points decided appear from the opinion of the court.

The court says: Jonas Graybill executed two notes to Strickland for the price of a certain patent, which were from time to time renewed, and the notes last given not having been paid, suit was brought to recover the money represented by them. The defendants pleaded general issue and a special plea, in which they aver that the notes were given for the purchase price of a certain patent of right for a bed brace for the States of Ohio and Alabama; that the defendants were induced to purchase by false and fraudulent representations of material matters made by the plaintiff to them and that they had been damaged to the extent of \$2,750, which they offer to set off against the claim in the declaration mentioned.

Plaintiff moved to strike out this plea, which the court overruled and the plaintiff excepted. We are of opinion that there was no error in the ruling made by the court. The plea avers, among other things, that the plaintiff represented to the defendant that he had been offered \$75,000 for the patent right. This is an averment of fact and not a mere opinion; an averment of a fact which might well induce a bidder to give more for an article than he otherwise would have done, especially when the subject of the purchase is of great value to the bidder and the plaintiff has a right to sell an article, and the chief element of its value is the readiness with which it may be sold.

Nor can the objection to the plea that it does not in its terms aver scienter be sustained. This is an equitable plea under the statute, and contains all the necessary averments. We have the positive statements of facts averred to have been falsely and fraudulently made for the purpose of procuring the contract; that they were material; that they were untrue; that the party to whom they were made relied upon them and were by them induced to enter into the contract.

We are of opinion that the evidence was sufficient to warrant the judgment. It is true that after the original notes were executed they were renewed with knowledge on the part of the defendants in error of the falsity of the representations by which they had been induced to enter into the contract; but it satisfactorily appears that there was no purpose upon their part to waive the defense upon which they now rely, or to ratify the original transaction, for both the defendants state that the notes were renewed with the understanding between them and Strickland that he expected to sell the whole patent right to a joint stock company in which event he would take back the territory purchased by them. Affirmed.

CROSS V. SOUTHERN R. CO.

Supreme Court of Georgia.
November 1, 1899.

A RAILROAD COMPANY IS NOT LIABLE FOR INJURY TO A BOY WHO WAS RUNNING ALONG A PATH SIX FEET FROM A TRAIN, WITH A ROPE TIED AROUND HIM, AND TRAILING BEHIND, THE ROPE BY SOME MEANS BEING DRAWN UNDER THE TRAIN, THE BOY PULLED UNDER AND HURT.

The facts appear from the opinion of the court.

The court says:

The Southern Railway Company was sued for personal injuries to a small boy by one of its trains. After the close of the plaintiff's evidence the court granted a non-suit, and to this the plaintiff excepted. From the evidence and the admitted facts, it appears that the injury occurred within the limits of an incorporated city, at a point on the company's tracks which was between two public crossings, and more than 300 yards from either of them. The boy, not quite 8 years old, had been "playing horse" with a little playmate, and in lieu of harness and bridle, a piece of rope had been tied to his arm. Having "gotten loose" from his driver, he ran away, and, entering the shallow cut in which the track lay, ran along a path parallel to the track, and about 6 feet from it. A train of the defendant company came up behind him, but did not frighten him. He looked back at it, but continued down the path, and, even after the engine had passed him, he kept his course, the rope trailing behind him. At a point some 75 yards from where he had run into the path, and when about half of the train had passed him the rope by some means—whether as a result of the disturbance of the air by the train or of the motion imparted to the rope itself by the boy does not appear—caught on a passing car. The boy was thrown from his feet, and drawn partly under the wheels of the train, both of his legs being cut off between the knee and ankle. The evidence also shows that when the train was approaching the boy the engineer did not ring the bell or blow the whistle, and that the speed of the train was from 15 to 20 miles an hour. Under these facts the company could not properly be held to have been in fault, and liable to damages, and it was,

therefore, not error to grant a non-suit. The company was not liable unless it had been negligent, and it was not negligence to fail to do what it was under no legal duty to do. Simply because the boy was running along and keeping within a path parallel with the railway track, and some six feet from it, the law did not make it the duty of the company's servants to slow up the train, ring the bell or blow the whistle. Had the boy been running at an angle with the track, and been apparently about to cross it, the case might have been different. As it was, the boy was not on the track, and did not appear to be in any appreciable danger, and the proximate cause of the injury was the engagement of the rope with some part of the passing train—something which the company's agents could not have foreseen, and have been expected to guard against. For this reason we think the injury is shown by the evidence to have been the result of an accident for which the company cannot be held liable. Judgment affirmed.

WILL PLAY TOMORROW.

BOTH TEAMS IN PINE SHAPE—HARD FIGHT EXPECTED.

The Norfolk and the High School teams are ready for the sound of the referee's whistle bidding them play. The hard practices are over, and all that now remains is the struggle. The players on both elevens are eager for the game. They are all in fine condition, not one of them being in the least injured by the hard practice work they have gone through during the past two or three weeks.

Captain Browne, of the Norfolk, is fully confident that his men will win. He feels sure that they will have little trouble in snowing the students under. On the other hand, the High School boys are equally as confident that victory will be theirs. The game will decide who is who; but present indications point to a victory for the Norfolk. The players on the High School team certainly have shown that they have science and team work, and that they are good individual players, but the Norfolk's players are more experienced in the game, and are also good individual players and outwitted the student team. As for their teamwork, it remains to be seen whether or not the weeks of hard, steady practice has had its results. Nevertheless, the team that represents the Norfolk High School will not at this late day allow itself to suffer defeat at the hands of any other team without fighting for victory to the very last ditch.

The game to-morrow will be called at 11 a. m. sharp in League Park. Order will be strictly enforced. The spectators will not be allowed to crowd upon the field of play, and all who go may be confident that everything will be done by the management to assure their comfort and enjoyment.

Competent and impartial parties have been asked to act as the officials. The line-up of the High School team could not be definitely secured last night, but in all probability it will be about the same as heretofore, with the exception of center, Vesey having resigned from the team.

The Norfolk will line up as follows: Rain, left end; Page, left tackle; O. Blincoe, left guard; Sargeant, right guard; Payne and McGinn, right end; Payne and McGinn, right tackle; Bowdoin, left half back; Truxton, right half back; Rogers, full back; Browne (captain), quarter back.

Dinner at the Almshouse.

The city's helpless poor at the almshouse will be given a Christmas dinner. It will be prepared under the supervision of Mr. H. A. Tarrall, the superintendent, who, by direction of the Almshouse Committee, Messrs. W. H. Hannan, S. Marx and K. B. Elliott, of the City Councils, has provided a list of good things for the inmates. Following is the bill of fare: Corned ham and cabbage; sweet potatoes, Irish potatoes, turkey, roast beef, California dried peaches, pickles, celery, cold slaw, mince pie, lemon pie, fruit cake, plain cake, small mixed cakes, mixed nuts, mince, apples, oranges, raisins, bananas, etc.

THE LATE GENERAL STEWART

EQUESTRIAN STATUE TO HIS MEMORY PROPOSED.

The Executive Committee of the Confederate Veteran Cavalry Association sends out the following:

Richmond, Va., Dec. 18th, 1899.

To the Surviving Members of the Cavalry and Horse Artillery and All Other Soldiers and Sailors, who Admire the Splendid Career of a Great Soldier:

It was unanimously decided at a meeting of the Executive Committee of the Veteran Cavalry Association, recently held in the city of Richmond, to proceed with the erection of an equestrian statue to Major-General J. E. B. Stuart.

Years ago the preliminary steps were taken for this purpose, but further action was postponed on account of the financial depression then prevailing. The substitution of the command "Forward" for that of "Mark Time," then given, is because the dark days of the past have been succeeded by a more prosperous period. In consequence the resolve has been taken to proceed promptly with a successful completion of the erection of a monument to the great cavalry chieftain who fell at the gates of Richmond.

We earnestly request all soldiers, whatever the arm of service, and all citizens who sympathize with or are willing to co-operate with the Veteran Cavalry Association in their noble purpose, to send at once their names and positions to Mr. W. Ben Palmer, secretary of the Veteran Cavalry Association, Richmond, Va.

(Signed): Fitzhugh Lee, president; Wade Hampton, L. L. Lomax, M. C. Butler, William H. Payne, W. P. Roberts, T. T. Munford, H. B. McClellan, vice presidents.

T. W. Sydney, Chairman Executive Committee; W. Ben Palmer, Secretary. All papers throughout the country in sympathy with this movement will please copy.

A Correction.

In the publication yesterday of the challenge of Mr. Robert Edmond for a race of Our Jim against various boats, he was inadvertently made to say: "yet, in order to have a fair race and to detract from the honor of the winner, each boat entered should give or receive the allowance to which she is justly entitled." The lines should have read: "and not to detract, etc." The mistake gave an entirely wrong expression, which is a cause of regret.

ART AND MUSIC.

Art Loan Exhibit for Hospitals Suggested.

Some Big Orders of a Noted Song Placed—Two Striking Paintings on Exhibition—A Holiday Reception.

The holiday reception of the Conservatory of Music will be held January 2d from 5 to 8 p. m., at the Conservatory, to which pupils and their parents are invited.

Christmas music by the various choirs in the city, as usual, take their special column to-day, and for this reason little or no city music is noted here.

Seigel, Cooper & Co., of Chicago, have just been running a holiday special advertisement in a large number of papers, with the following central announcement: "Our Christmas Special—We submit each year for your consideration a new song by some famous American author, or publisher. None but stars considered at this season. The house of M. Witmark & Sons are authority on this, etc., etc."

All this is introduction for an offer of "Notion and Chase's 'Sing Me a Song of the South,' the firm of Seigel, Cooper & Co. having purchased 20,000 copies as a holiday specialty. This is the second 20,000 copy sale within a few months, beside a large regular demand. Probably no song of the year is more quoted.

In contradiction to the volley of hideous noises evolved from the multitudinous tin horns Friday and Saturday night there stands out in harmony one delightful oasis of melody in the desert of frightful din (or tin). Whose happy thought or who the kindly carolers is not known, but four young men had secured four tin horns of varying size and of tones forming practically a perfect chord, and the result was surprisingly pleasant. The quartette are deserving of more fame and laurel than many an one who gets both.

There is an exhibition at the store of Messrs. J. V. Alfriend & Co. two oil paintings worthy special notice. One is a large copy of "Cupid's Vacation," the well-known fishing maiden scene, and the other a much smaller copy of "The Guardian Angel." Both are the handiwork of Mrs. Charles Bassett, of Norfolk, and are considered excellent samples of that talented lady's skill. The richness of coloring, ease and freedom of treatment and individuality of thought expressed make the pictures notable.

It has been suggested that an art loan exhibition be given in Norfolk under the auspices of some association during the early part of 1900 for the benefit of the hospitals. The idea is given the public for what it is worth. Norfolk has had some fine loan exhibitions of art in the past, and her residences contain many gems of past masters in painting and statuary. It could be done. Will it?

KNIGHTS TEMPLAR.

A LETTER FROM GRAND COMMANDER BUCHANAN.

Griec Commander No. 16, Knights Templar, of Norfolk, has received the following from the Grand Commander of Virginia. The request made will be complied with at the Masonic Temple at 12 o'clock Monday:

Marion, Va., Dec. 11, 1899.

To the Eminent Commander, Officers and Sir Knights of the Commanderies in Virginia:

Dear Fraters—It is with pleasure I transmit to you the following sentiment which has been prepared for the coming Christmas:

"To Our Most Eminent Grand Master, Reuben Hedley Lloyd, may the Lord send him all the blessings which his faithful knights wish him on this merry Christmas."

The Grand Master sends the following response: "Sir Knights—May He, who provides all things, endow you with wisdom and power to illustrate in your lives and conduct the principles taught by Him whose advent we this day commemorate."

It is the earnest wish of the Grand Commander that each Commandery assemble in its asylum on Monday, December 25th, 1899, at 12 m. Eastern time, and join with him and other valiant Sir Knights "all over the world" in due observance of these sentiments. A courteous invitation is extended to all Sir Knights within our borders to participate.

Your Grand Commander extends to one and all his personal greetings and wishes for each Sir Knight and his "loved ones" a merry Christmas and a happy New Year.

Courteously yours,

B. F. BUCHANAN, Grand Commander.

Attest: JAMES B. BLANKS, Grand Recorder.

Obsequies of Mrs. Camp.

The funeral of this venerable and highly esteemed lady, whose death has been noted in these columns, was held from the residence of her husband, Mr. Lowell T. Camp, No. 90 Falkland street, at noon yesterday and was largely attended. The services were conducted by Rev. R. V. A. Coke Smith, D. D., of Epworth Methodist Church. The interment was in the family lot in Cedar Grove cemetery. Following were the pall bearers: Messrs. T. M. Saunders, William Camp, R. L. Martin, A. S. Martin, George G. Martin, W. H. Martin, J. J. Martin and J. C. Martin, all near relatives of the deceased.

Dr. Bull's Cough Syrup
Cures all Coughs and Lung Affections.
Get the genuine. Refuse substitutes.
IS SURE
Dr. Bull's Cough Syrup. Trial, 20 for 5c.

BRIEF ITEMS OF INTEREST.

Miller, Rhoads & Co. kindly remembered the employees of the Virginian Pilot last night, presenting each with an appropriate reminder of the Christmas season.

On and after January first the Virginia Transfer Company's office will be found in the Southern Railway office, at the corner of Main and Granby streets.

E. C. Law, secretary and statistician of the Board of Trade and Business Men's Association, is seriously ill at his home on Dartmouth street.

The doors of the Boys' Home, on Bank street, will be open all day Christmas for the receipt of gifts and donations from those friends desiring in this manner to aid this worthy charity.

The Baptist Sunday School Association will meet this afternoon with the First Church, this city.

Professor Charles Crow, of the faculty of the Washington and Lee University, is home to spend the holidays.

Professor C. N. Williams, of William and Mary College, is spending the Christmas with his parents on Granby street.

Rev. A. S. Lloyd, D. D., late rector of St. Luke's Episcopal Church, but now secretary of the Foreign and Domestic Mission Board of the Episcopal Church in America, arrived here yesterday to spend Christmas with his family. He will preach at St. Luke's Church to-day at 11 a. m. and 7:30 p. m.

Bishop A. M. Randolph will preach at Christ Church this morning. There will be early communion at this church Christmas day at 8 o'clock a. m.

The children's Christmas service will be held in St. Paul's Church this evening at 4:30 o'clock. The children will sing the Christmas carols and hymns.

Mr. William Wadsworth Day has been confined to his home with the grip for the past week.

Rev. Z. Hughes, of the Baptist denomination, received a big turkey, a fine ham and other presents from the members of one of his churches.

Special Officer C. T. Joyner, at the 5 and 10 cent store, who fell from a step-ladder and sustained painful injuries Friday, was on duty again yesterday.

[Communicated.] Emanuel Chapel.

This flourishing mission of Christ P. E. Church welcomes the birthday of our Lord "as a bride, all glorious, adorned for her husband."

During the past week silent and mighty changes have been wrought in the furnishings, and this morning a mantle, resembling a deep blue, spreads itself cozily over the entire floor. The benches fairly shine, bearing cheerfully the new book-racks and books of worship—while just within each partition beneath and out of the way of feet, comfortable benches invite you to kneel as you "enter the courts with praise." Holly and cedar, fit emblems of Christmas-time, festoon every available niche.

All this comes as a Christmas gift from an untiring congregation to the efficient and beloved curate, whose ministry in and out among his parishioners has drawn all hearts together and steadfastly pointed them towards Him whose birth we celebrate.

The Sunday school numbers now upwards of a hundred, and is in a most flourishing condition, teachers and pupils alike being inspired by the pure life and lofty ideals of their consecrated curate.

The public are cordially invited to worship here at all the services. This evening the music will be of a high order. Miss Lizzie Taylor will sing at this service.

Christmas morning at 7 o'clock the Holy Communion and sermon will be celebrated.

Ormsby Released on Bail.

Charles J. Ormsby, of Norfolk, whom the Washington authorities held responsible for the death of Charles Galloway in that city, was bailed yesterday in the sum of \$5,000. He is expected to come back to Norfolk.

OTHER LOCAL ON PAGE 6

"Great Haste is Not Always Good Speed."

Many people trust to luck to pull them through, and are often disappointed. Do not dilly-dally in matters of health. With it you can accomplish miracles. Without it you are "no good."

Keep the liver, kidneys, bowels and blood healthy by the use of Hood's Sarsaparilla, the faultless blood purifier.

Dyspepsia—"I know a positive relief for dyspepsia and that is Hood's Sarsaparilla. It cured me. My digestion is stopped." W. E. HADWIN, 164 Oak Street, Brighton, New York.

Tired Feeling—"My appetite was capricious, my liver disordered and I was tired. Hood's Sarsaparilla relieved it all. It cured a friend of mine of female weakness." Mrs. Jessie A. Mearns, Clayton, Del.

Hood's Sarsaparilla
Never Disappoints

Hood's Pills cure liver ills; the non-irritating and only cathartic to take with Hood's Sarsaparilla.

NOTICE OF THIRD DIVIDEND

Office of Theodore S. Garnett, Trustee & Receiver of Burruss, Son & Co. 221 Citizens Bank Building, Norfolk, Va. DIVIDEND OF TEN PER CENT. will be paid to all creditors of Burruss, Son & Co., on presentation of Receiver's Certificate at the office between the hours of 10 a. m. and 2 p. m. on and after the 25TH DAY OF DECEMBER, 1899.

ASSOCIATION.

'Tis but the fragment of a song, Borne on the summer air; That takes me back to home again; Its vine-clad roof and fair.

Strange that the words of a dear old air, I loved in childhood's days, Should bring to memory a childhood's prayer.

And childhood's merry ways.

Fond memory wanders down a track, Bright with sunny gleams, And radiant, pure, comes sailing back, The loved of golden dreams.

There I wander once again In the old familiar place, And watch the smiles thro' tears of pain, On a well-beloved face.

Again I see the familiar flowers In a garden fresh and fair; And the golden sunlight fall in showers Upon that sunny hair.

Oh, fragrant flowers! Oh, cottage home! Oh, dear familiar song! Oh, love, to be again with thee— With thee I have loved so long!

—BETRIE KELLY.
Norfolk, Va., Dec. 23, 1899.

A Christmas Surprise.

Mr. S. Dozier, the Main street dry-goods merchant, was very pleasantly surprised Christmas eve by a handsome silver teaset, donated by his staff of employees. And at the presentation of the set one gentleman addressed Mr. Dozier in these timely words: "We sincerely hope that our gift will render to you, the recipient, the same, d-light and pleasure, that it affords us to present it." Mr. Dozier responded with appropriate words, and in return liberally rewarded each of his company with a choice Christmas gift.

Hoo-Hoo.

The concatenated Order of Hoo-Hoos will have a concatenation in Elks' Hall on the evening of December 28th. See advertisement.

TARRANT'S SELTZER
"The Great Superiority"
of Tarrant's Effervescent Seltzer Aperient is in its power to relieve without irritation. It cleanses and refreshes the stomach and bowels, removes gouty and rheumatic poisons from the blood, and allays feverish conditions in a wonderful manner.
TARRANT & CO., Chemists, New York.
At druggists, 50c. and \$1.00.

AA \$1,000 IN CASH FREE
Can you arrange these 11 jumbled letters so they will form the title to one of the best story papers in the land? If so, you may share in the distribution of \$1,000, which will be given for doing a little work for us. In arranging the letters, use them only as many times as they appear, and no letter can be used which does not appear. This and other most liberal offers are made TO INTRODUCE one of the most interesting monthly story papers in the United States and Canada. The current issue contains 20 STORIES, and a copy will be SENT FREE to each person answering this advertisement. Try and get your share of the \$1,000. We do not want any of YOUR money. We would like you to use a postal card, answering this, with the solution plainly written, and your address in full. You will hear from us by RETURN MAIL. Address: THE PAGAGON MONTHLY, 22 North William street, New York City, N. Y.

NEW Year and Bridal Presents.

Just the prettiest ever shown in Norfolk and at just the right prices. Handsome Pictures, Medallions, Mirrors, Services, Etc., Brass Frames, Plaques, Clocks, Jardiniere, Lamps, &c., &c. We guarantee to undersell all competition.

CALL AND EXAMINE OUR STOCK.

LOUGHRAN & PRIEUR'S ART STORE.
114 CHURCH STREET, NEAR MAIN.

Handsome Lace Curtains
Such as we are selling are bound to recognize themselves to those who recognize good quality when they see it. The curtains we are offering now are just in and are the kind that wear for several seasons, and are honest bargains at the price we ask. Call and see them.

L. H. Whitehurst, 336 MAIN STREET.
ICE CREAM AND CREAM
Especially for
CHRISTMAS.
THE METTOWEE.

Remember you have only two more weeks in which to get the advantage of our cut prices. We will have to shut down on the 27th to move. Will be open all day Christmas day.

B. S. CAMPBELL, 20-24 MAIN STREET.
After January 1st, 208-270 Main street, over Vickery's book store, 202-210 N. 1st.

TO OUR FRIENDS AND PATRONS
WE WISH YOU COMPLIMENTS
OF THE SEASON.

Saks & Company

The New Way
The pain of old time extraction of more upon the w's.e. The dread of also unknown when once our "New" been applied. The operation—as we easy, quick and painless—requiring drug or vapor—and free from every effect. After the operation the patient "Is it really out?" It takes only one

NEW YORK DENTAL ROOMS
NO. 24, COR. MAIN AND TALBOT STREETS, N. E. OF
ESTABLISHED NEARLY 20 YEARS.
J. D. ENNES, Dentist.

We Can Help You
Are you still wondering about what to buy for remembrance for your band, brother, or sweetheart? Give something attractive and serviceable. One of the articles mentioned below will be of service for the occasion.

NOBBY NECKWEAR—in the noblest hatters' styles. Available shapes, 50c. to 1.00.
KID GLOVES—lined and unlined, 50c. per pair.
SUSPENDERS—all styles. The latest, of course, are edged.
UMBRELLAS—in the noblest hatters' styles. Available shapes, 50c. to 1.00.
FANCY SILK AND WOOL—single and double breasted. CARDIGAN JACKET. SWEATERS—also in the latest styles. Remember, we have the Stein-Bloch tailor-made suits, and vintages.

John F. Small, 302 MAIN STREET.
(Successor to Doyle and Small.)

HOME KILLED MEATS!
THE ONLY KIND WE SELL—THE ONLY KIND YOU WILL USE AFTER YOU UNDERSTAND THE MEAT PROBLEM. IT WILL PAY YOU TO SEND US YOUR ORDER FOR A NUMBER OF REASONS.

A Merry Christmas to all
Store Closed

BENJ. LOWE
34 GRANBY STREET
OLD PHOTO

Notice to the Public
We hereby notice that the following TION WILL BE for Blumington every 1st, 10th, 20th, 30th, 40th, 50th, 60th, 70th, 80th, 90th, 100th, 110th, 120th, 130th, 140th, 150th, 160th, 170th, 180th, 190th, 200th, 210th, 220th, 230th, 240th, 250th, 260th, 270th, 280th, 290th, 300th, 310th, 320th, 330th, 340th, 350th, 360th, 370th, 380th, 390th, 400th, 410th, 420th, 430th, 440th, 450th, 460th, 470th, 480th, 490th, 500th, 510th, 520th, 530th, 540th, 550th, 560th, 570th, 580th, 590th, 600th, 610th, 620th, 630th, 640th, 650th, 660th, 670th, 680th, 690th, 700th, 710th, 720th, 730th, 740th, 750th, 760th, 770th, 780th, 790th, 800th, 810th, 820th, 830th, 840th, 850th, 860th, 870th, 880th, 890th, 900th, 910th, 920th, 930th, 940th, 950th, 960th, 970th, 980th, 990th, 1000th.

Removal Notice.
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